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DEPARTMENT OF DEFENSE

GENERAL SERVICES ADMINISTRATION

NATIONAL AERONAUTICS AND SPACE ADMINISTRATION

48 CFR Chapter 1

[Docket No. FAR 2016-0051, Sequence No. 8]

**Federal Acquisition Regulation; Federal Acquisition Circular
2005-93; Small Entity Compliance Guide**

AGENCIES: Department of Defense (DoD), General Services Administration (GSA), and National Aeronautics and Space Administration (NASA).

ACTION: Small Entity Compliance Guide.

SUMMARY: This document is issued under the joint authority of DOD, GSA, and NASA. This Small Entity Compliance Guide has been prepared in accordance with section 212 of the Small Business Regulatory Enforcement Fairness Act of 1996. It consists of a summary of the rules appearing in Federal Acquisition Circular (FAC) 2005-94, which amends the Federal Acquisition Regulation (FAR). An asterisk (*) next to a rule indicates that a regulatory flexibility analysis has been prepared. Interested parties may obtain further information regarding these rules by referring to FAC 2005-94, which precedes this document. These documents are also available via the Internet at <http://www.regulations.gov>.

DATES: [Insert date of publication in the FEDERAL REGISTER.]

FOR FURTHER INFORMATION CONTACT: For clarification of content, contact the analyst whose name appears in the table below. Please cite FAC 2005-94 and the FAR case number. For information pertaining to status or publication schedules, contact the Regulatory Secretariat Division at 202-501-4755.

Rules Listed in FAC 2005-94

<u>Item</u>	<u>Subject</u>	<u>FAR Case</u>	<u>Analyst</u>
*I	Privacy Training	2010-013	Gray
*II	Payment of Subcontractors	2014-004	Glover

SUPPLEMENTARY INFORMATION: Summaries for each FAR rule follow. For the actual revisions and/or amendments made by these rules, refer to the specific item numbers and subjects set forth in the documents following these item summaries. FAC 2005-94 amends the FAR as follows:

Item I—Privacy Training (FAR Case 2010-013)

This final rule amends the Federal Acquisition Regulation to clarify the training requirements for contractors whose employees will have access to a system of records on individuals or handle personally identifiable information. These training requirements are consistent with the Privacy Act of 1974, 5 U.S.C. 552a, and OMB Circular A-130, Managing Federal Information as a Strategic Resource. Prime contractors are required to flow down these requirements to all applicable subcontracts.

Item II—Payment of Subcontractors (FAR Case 2014-004)

This final rule amends the Federal Acquisition Regulation (FAR) to implement section 1334 of the Small Business Jobs Act of 2010 and the Small Business Administration's (SBA) final rule, published July 16, 2013. If a contract requires a subcontracting plan, the prime contractor must notify the contracting officer in writing if the prime contractor pays a reduced payment to a small business subcontractor, or an untimely payment if the payment to a small business subcontractor is more than 90 days past due for supplies or services for which the Government has paid the contractor. The contractor is also to include the reason for the reduction in payment or failure to pay. A contracting officer will then use his or her best judgment in determining whether the reduced or untimely payments were justified. The contracting officer must record the identity of a prime contractor with a history of three or more unjustified reduced or untimely payments to subcontractors within a 12-month period under a single contract, in the Federal Awardee Performance and Integrity Information System (FAPIIS). This regulation will benefit small business subcontractors by encouraging large business prime contractors to pay small business

subcontractors in a timely manner and at the agreed upon contractual price.

Dated: December 9, 2016.

William F. Clark,
Director,
Office of Government-wide
Acquisition Policy,
Office of Acquisition Policy,
Office of Government-wide Policy.

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